

AMENDMENTS TO THE DRAWINGS:

The attached sheets of replacement drawings revise FIG. 1 to remove unlabeled boxes, and resubmit FIGS. 3 and 5 in a form that includes drawing number labels (i.e., "FIG. 3" and "FIG. 5", respectively).

Attachments: 3 Sheets of Replacement Drawings (Figures 1, 3, and 5)

REMARKS

In the Office Action¹, the Examiner objected to the drawings; objected to claims 5, 11, and 16 for purported informalities; objected to the Abstract; rejected claims 18 and 20 under 35 U.S.C. § 101; rejected claims 1-11, 17, and 18 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Publication No. 2002/0077711 A1 of Nixon et al. ("Nixon"); and rejected claims 12-16, 19, and 20 under 35 U.S.C. § 103(a) as being unpatentable over Nixon in view of U.S. Patent No. 6,047,376 to Hosoe ("Hosoe").

By this Reply, Applicant has amended claims 1-5 and 7-20. Support for the amendments can be found throughout the specification at, for example, page 7, line 7 - page 9, line 4. Claims 1-20 are currently pending, with claims 1, 12, and 17-20 being independent. Based on the foregoing amendments and following remarks, Applicant respectfully requests reconsideration and withdrawal of the objections and the claim rejections.

I. Objection to the Drawings

The Examiner objected to the drawings because purportedly "some elements or boxes in FIG. 1 have [not been] labeled [and] the drawing numbers (e.g., FIG. 3 and FIG. 5) do not appear in the drawings." Office Action at 3. Although Applicant respectfully disagrees with the objection to FIG. 1 because the "unlabeled boxes" in FIG. 1 are parts of item 10, Applicant, in an effort to advance prosecution, has amended

¹ The outstanding Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the outstanding Office Action.

FIG. 1 to remove the “unlabeled boxes.” With respect to FIGS. 3 and 5, Applicant resubmits drawing sheets including FIGS. 3 and 5 with drawing number labels (i.e., “FIG. 3” and “FIG. 5”, respectively). The drawing sheets including FIGS. 3 and 5 correspond to drawings included in Applicant’s foreign priority application. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the objection to the drawings.

II. Objection to Claims 5, 11, and 16

The Examiner objected to claims 5, 11, and 16 because of purported informalities. Applicant has amended claims 5, 11, and 16 as suggested by the Examiner to remove the alleged informalities. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the objection to claims 5, 11, and 16.

III. Objection to the Abstract

The Examiner objected to the Abstract “because it should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words.” Office Action at 3. Although Applicant respectfully disagrees with the objection because the original Abstract contains a single paragraph within the range of 50 to 150 words, Applicant, in an effort to advance prosecution, has amended the Abstract to be in a more narrative form. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the objection to the Abstract.

IV. The Rejection of Claims 18 and 20 Under 35 U.S.C. § 101

The Examiner rejected claims 18 and 20 under 35 U.S.C. § 101 “because the claimed invention is [purportedly] directed to non-statutory subject matter.” Although Applicant respectfully disagrees, Applicant, in an effort to advance prosecution, has

amended claims 18 and 20 to recite, among other things, “[a] computer program product embodied in a computer-readable medium.” Amended independent claim 18 further recites, among other things, that the computer program product “causes [a] server to: store . . . received data in a database; monitor and summarize the data stored in the database; generate a feed containing reports of parameters being monitored in . . . equipment based on at least one of the data stored in the database and the summarized data; store the feed on the server; and provide the feed to the remote device.” Amended independent claim 20 recites, among other things, that the computer program product “causes [a] device to: uniquely address [a] feed located at [a] server; perform a look-up of the feed from the server at regular read intervals; and display the feed.”

Therefore, amended independent claims 18 and 20 recite functional features, and thus recite subject matter structurally and functionally interrelated to the medium. Therefore, amended claims 18 and 20 are directed to statutory subject matter. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 101 rejection of claims 18 and 20.

V. The Rejection of Claims 1-11, 17, and 18 Under 35 U.S.C. § 102(b) Based on Nixon

The Examiner rejected claims 1-11, 17, and 18 under 35 U.S.C. § 102(b) as being anticipated by Nixon. Applicant respectfully traverses this rejection.

In order to properly anticipate claims under 35 U.S.C. § 102, a cited reference must explicitly disclose each and every element recited in the claims. See M.P.E.P. § 2131, 8th Ed., (August 2005). If the reference fails to expressly set forth a particular element, then the Examiner must show that this element is inherently

disclosed to substantiate a claim of anticipation. See In re Robertson, 169 F.3d 743, 745 (Fed. Cir. 1999). To establish inherency, the Examiner must specifically identify extrinsic evidence that makes clear to one skilled in the art that the missing element "is necessarily present" in the reference's disclosure. See id.; see also Continental Can Co. v. Monsanto Co., 948 F.2d 1264, 1269 (Fed. Cir. 1991).

A. Claim 1

Applicant respectfully submits that Nixon does not disclose each and every element recited in amended independent claim 1. For example, amended independent claim 1 recites, "[a] server for connecting to equipment to be monitored, the server receiving data from the equipment and having an internet protocol address for providing access to a remote device, . . . comprising: a database for storing the data received from the equipment, a summarizer for monitoring and summarizing the data stored in the database; and a feed generator for generating a feed based on at least one of the data stored in the database and the summarized data, the feed being stored on the server, wherein the server provides the remote device with access to the feed." Nixon does not disclose at least this recited subject matter of amended independent claim 1.

The Examiner asserted, with respect to claim 18, that Nixon discloses "caus[ing] the server to generate a feedfile containing reports of parameters being monitored in the equipment" because Nixon discloses that "the data collection and distribution system . . . may receive data from the disparate sources of data[, and] in one embodiment, the communications over the bus 32 occur using the XML protocol[, in which] data from each of the computers . . . is wrapped in an XML wrapper and is sent to an XML data server[, at which] the data is encapsulated and mapped to a new XML

wrapper, i.e., this data is mapped from one XML schema to one or more other XML schemas which are created for each of the receiving applications.” Office Action at 21. Nixon states that “the server may also perform certain data processing functions or other functions based on the receipt of the data.” Nixon at paragraph [0040]. As asserted by the Examiner, “once received and converted, the data is stored in a database in some accessible manner and is made available to applications or users within the asset management suite 50.” Office Action at 7.

Applicant respectfully submits that in the system of Nixon data is stored in a database **after** the data is received and mapped to a new XML wrapper, and after certain data processing functions have been performed. This is not the same as a server configured so as to provide “. . . storing . . . data received from the equipment [in a database], . . . monitoring and summarizing the data stored in the database; and . . . generating a feed based on at least one of the data stored in the database and the summarized data, the feed being stored on the server,” as recited in amended independent claim 1. In the system of Nixon, the received, converted, and processed data are available in a database, but NOT as a “feed [that is] stored on a server,” separately from the data stored in the database, as recited in amended independent claim 1. Thus, in the system of Nixon, it is the **data stored in a database** that is accessible to applications or users within the asset management suite 50, and NOT the “feed [generated] based on at least one of the data stored in the database and the summarized data, the feed being stored [separately from the data in the database] on the server,” as recited in amended independent claim 1.

Further, although the data collection and distribution system of Nixon performs certain data processing functions, the system, which receives data from the assets, does not provide any “monitoring and summarizing [of] the data stored in the database,” as recited in amended independent claim 1. As the Examiner observed on page 7 of the Office Action, it is the “applications[, which receive data from the data collection and distribution system, that] use, combine, and integrate the data from one or more of the different data sources” after the data has been received by the applications. Thus, the data collection and distribution system, which collects data from the assets of the process plants, does not provide any “monitoring and summarizing [of] the data stored in the database,” as recited in amended independent claim 1.

For at least these reasons, Nixon fails to support the § 102(b) rejection of amended independent claim 1. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 102(b) rejection of claim 1 based on Nixon.

B. Claim 2-11

Claims 2-11 depend from amended independent claim 1, and are allowable at least by virtue of their dependence from an allowable independent claim. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 102(b) rejection of claims 2-11 based on Nixon.

C. Claim 17

Amended independent claim 17, although of different scope, recites features that are similar to features recited in amended independent claim 1. For example, amended independent claim 17 recites, among other things, “storing . . . received data in a database; monitoring and summarizing the data stored in the database; generating a

feed containing reports of parameters being monitored in . . . equipment based on at least one of the data stored in the database and the summarized data; storing the feed on the server; and providing the feed to [a] remote device.” For reasons at least similar to the reasons set forth with respect to amended independent claim 1, Nixon fails to support the § 102(b) rejection of amended independent claim 17. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 102(b) rejection of claim 17 based on Nixon.

D. Claim 18

Amended independent claim 18, although of different scope, recites features that are similar to features recited in amended independent claim 1. For example, amended independent claim 18 recites, among other things, a computer program product which “causes [a] server to: store the received data in a database; monitor and summarize the data stored in the database; generate a feed containing reports of parameters being monitored in the equipment based on at least one of the data stored in the database and the summarized data; store the feed on the server; and provide the feed to the remote device.” For reasons at least similar to the reasons set forth with respect to amended independent claim 1, Nixon fails to support the § 102(b) rejection of amended independent claim 18. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 102(b) rejection of claim 18 based on Nixon.

VI. The Rejection of Claims 12-16, 19, and 20 Under 35 U.S.C. § 103(a) Based on Nixon and Hosoe

Applicant respectfully traverses the § 103(a) rejection of claims 12-16, 19, and 20 under 35 U.S.C. § 103(a) as being unpatentable over Nixon in view of Hosoe. *A prima*

facie case of obviousness has not been established with respect to claims 12-16, 19, and 20.

“The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. . . . [R]ejections on obviousness cannot be sustained with mere conclusory statements.” M.P.E.P. § 2142, 8th Ed., Rev. 6 (Sept. 2007) (internal citation and inner quotation omitted). “The mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art.” M.P.E.P. § 2143.01(III) (emphasis in original). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” M.P.E.P. § 2143.03. “In determining the differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious.” M.P.E.P. § 2141.02 (I) (emphases in original).

“[T]he framework for objective analysis for determining obviousness under 35 U.S.C. § 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q. 459 (1966). . . . The factual inquiries . . . [include determining the scope and content of the prior art and] . . . [a]scertaining the differences between the claimed invention and the prior art.” M.P.E.P. § 2141(II). “Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.” M.P.E.P. § 2141(III).

A. Claim 12

Amended independent claim 12, although of different scope, recites features that are similar to features recited in amended independent claim 1. For example, amended independent claim 12 recites, among other things, a device having a network connection for connecting to “[a] server comprising a database for storing data received from the equipment, a summarizer for monitoring and summarizing the data stored in the database, and a feed generator for generating a feed based on the data stored in the database and the summarized data, the feed being stored on the server,” and including “a look-up component for performing a look-up of the feed from the server at regular read intervals.”

Nixon does not disclose the recited subject matter. Hosoe fails to teach or suggest the recited subject matter and thus fails to cure the deficiencies of Nixon, and the Office Action does not allege otherwise as Hosoe is relied upon only for its alleged teachings of “the news display application stor[ing] an address of the server.” Office Action at 25.

In view of the above-noted deficiencies of the Nixon and Hosoe references, the Office Action has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the prior art and the invention of claim 12. Thus, the Office Action has failed to clearly articulate a reason why claim 12 would have been purportedly obvious to one of ordinary skill in the art in view of the prior art. Accordingly, a *prima facie* case of obviousness has not been established with respect to amended independent claim 12, and the rejection under 35 U.S.C. § 103(a) must be withdrawn.

B. Claims 13-16

Claims 13-16 depend from amended independent claim 12, and are allowable at least by virtue of their dependence from an allowable independent claim. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 103(a) rejection of claims 13-16 based on Nixon and Hosoe.

C. Claim 19

Amended independent claim 19, although of different scope, recites features that are similar to features recited in amended independent claim 12. For example, amended independent claim 19 recites, among other things, “providing a network connection for connecting to a server connected to the equipment to be monitored, the server receiving data from the equipment, storing the received data in a database, monitoring and summarizing the data stored in the database, and generating a feed containing reports of parameters being monitored in the equipment based on at least one of the data stored in the database and the summarized data; storing an address of the server as a source of feed to be displayed” and “performing a look-up of the feed from the server at regular read intervals.” For reasons at least similar to the reasons set forth with respect to amended independent claim 12, a *prima facie* case of obviousness has not been established with respect to amended independent claim 19. Accordingly, the rejection under 35 U.S.C. § 103(a) must be withdrawn.

D. Claim 20

Amended independent claim 20, although of different scope, recites features that are similar to features recited in amended independent claim 12. For example, amended independent claim 20 recites, among other things, a computer program product which may be loaded onto a device associated with “[a] server receiving data

from the equipment, storing the received data in a database, monitoring and summarizing the data stored in the database, and generating a feed containing reports of parameters being monitored in the equipment based on at least one of the data stored in the database and the summarized data,” and which causes “the device to: perform a look-up of the feed from the server at regular read intervals.” For reasons at least similar to the reasons set forth with respect to amended independent claim 12, a *prima facie* case of obviousness has not been established with respect to amended independent claim 20. Accordingly, the rejection under 35 U.S.C. § 103(a) must be withdrawn.

VII. Conclusion


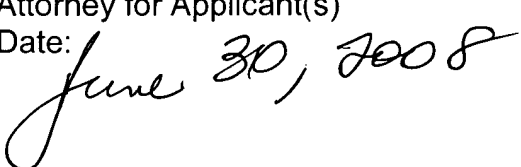
In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 50-4244.

Respectfully submitted,

Edwards Vacuum, Inc.
Legal Services-Intellectual Property
55 Madison Avenue, Suite 400
Morristown, NJ 07960

CUSTOMER NO.: 71134

By: 
Ira Lee Zebrak
Reg. No. 31,147
Attorney for Applicant(s)
Date: 

Attachments: 3 Sheets of Replacement Drawings (Figures 1, 3, and 5)